

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 \* \* \*

11 KIRK and AMY HENRY,

)

2:08-CV-00635-PMP-GWF

)

)

12  
13 Plaintiffs,

)

**ORDER**

)

)

14 vs.

)

)

15 FREDRICK RIZZOLO aka  
16 RICK RIZZOLO, an individual,  
17 LISA RIZZOLO, an individual,  
THE RICK AND LISA RIZZOLO  
FAMILY TRUST,

)

)

)

)

)

18 Defendants.  
19

)

)

)

)

20 Presently before the Court is Plaintiffs' Motion for Injunctive Relief Against the  
21 Disposition or Transfer of Assets (Doc. #519), filed on June 6, 2011. Defendants Rick  
22 Rizzolo, the Rick and Lisa Rizzolo Family Trust, the Rick J. Rizzolo Separate Property  
23 Trust, and the RLR Trust ("Rick Rizzolo") filed an Opposition (Doc. #527) on June 22,  
24 2011. Defendants Lisa Rizzolo, the Lisa M. Rizzolo Separate Property Trust, and the LMR  
25 Trust ("Lisa Rizzolo") filed an Opposition (Doc. #529) on June 23, 2011. Plaintiffs filed a  
26 Reply (Doc. #531) on July 5, 2011.

1           The parties are familiar with the facts in this case and the Court will not repeat  
2           them here except where necessary. Plaintiffs move the Court to direct that proceeds from  
3           the sale of Defendant Rick Rizzolo's interest in the Philadelphia club that are being held in  
4           an account be paid over to them, and to order that future payments due to Rick Rizzolo on  
5           the sale also be paid directly to Plaintiffs. Plaintiffs also request that the Court enjoin  
6           Defendant Lisa Rizzolo from transferring or dissipating any assets without first seeking  
7           leave of the Court.

8           Defendant Rick Rizzolo responds that an injunction is unnecessary because he  
9           agrees that the money from the sale which is being held in an account should not be  
10          distributed to him, and instead should be used to pay his obligations to various parties,  
11          including Plaintiffs, under the plea agreement. Defendant Lisa Rizzolo contends that an  
12          injunction is not warranted because Plaintiffs have failed to show a likelihood of success on  
13          the merits, as her divorce with Rick Rizzolo was not a sham and reasonable explanations  
14          exist for the parties' post-divorce personal and financial dealings. Lisa Rizzolo also argues  
15          that since the divorce, she has conserved the assets she obtained in the divorce for the future  
16          benefit of her children. She contends she has not dissipated assets other than paying for her  
17          living expenses, and thus no injunction is needed.

18          A plaintiff asserting a claim under the Nevada Uniform Fraudulent Transfer Act  
19          may obtain "[a]n injunction against further disposition by the debtor or a transferee, or both,  
20          of the asset transferred or of other property," subject to equitable principles and any  
21          applicable procedural rules. Nev. Rev. Stat. § 112.210(c)(1). "A plaintiff seeking a  
22          preliminary injunction must establish that he is likely to succeed on the merits, that he is  
23          likely to suffer irreparable harm in the absence of preliminary relief, that the balance of  
24          equities tips in his favor, and that an injunction is in the public interest." Alliance for the  
25          Wild Rockies v. Cottrell, 632 F.3d 1127, 1131 (9th Cir. 2011) (quoting Winter v. Natural  
26          Resources Defense Council, 555 U.S. 7, 20 (2008)). Alternatively, a plaintiff may show

1 there are “serious questions going to the merits,” the balance of hardships tips sharply  
2 toward the plaintiff, the plaintiff is likely to suffer irreparable harm without injunctive  
3 relief, and the injunction is in the public interest. Id. at 1132. Whether to grant or deny  
4 injunctive relief lies within the Court’s discretion. Id. at 1131.

5         The Court, in its discretion, will deny as moot Plaintiffs’ motion for injunctive  
6 relief as to Defendant Rick Rizzolo. In the related criminal proceeding, the Court already  
7 has ordered that Defendant Rick Rizzolo arrange for the payments due to him for the sale of  
8 his interest in the Philadelphia club be paid to Plaintiffs Kirk and Amy Henry, and that he  
9 take no actions, either himself or through anyone else acting on his behalf, to hinder  
10 payment of those funds to Plaintiffs. (Mins. of Proceedings (Doc. #459 in 2:CR-00186-  
11 PMP-PAL).) The Court also imposed several conditions on Rick Rizzolo in conjunction  
12 with revocation of his supervised release in the criminal action, including that he must  
13 submit truthful and complete written reports to his probation officer each month, that he  
14 shall not incur new credit charges or open additional lines of credit or consummate any new  
15 financial contracts without his probation officer’s approval, that he must move to the United  
16 States the location and management of all trust accounts in which he holds an interest  
17 directly or indirectly, and that he sign all waivers necessary to allow any foreign trust in  
18 which has an interest to provide records and other information to Plaintiffs. (J. on  
19 Revocation of Probation or Supervised Release (Doc. #460 in 2:CR-00186-PMP-PAL).)

20         The Court, in its discretion, also will deny the requested injunctive relief as to  
21 Defendant Lisa Rizzolo. Plaintiffs have failed, at this juncture, to establish a likelihood of  
22 irreparable injury absent the requested injunctive relief. Plaintiffs have presented no  
23 evidence that Lisa Rizzolo has dissipated or is on the verge of dissipating any assets which  
24 Plaintiffs allege Rick Rizzolo fraudulently transferred to her.

25         However, according to Plaintiffs, Defendant Lisa Rizzolo has failed to comply  
26 with her ongoing duty to supplement her discovery responses. In particular, Plaintiffs

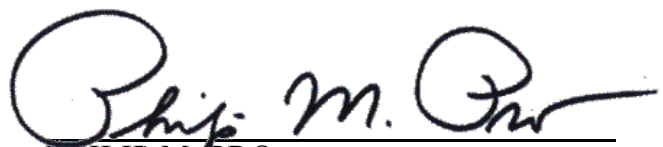
1 contend she has failed to provide Plaintiffs with any bank or other statements regarding the  
2 assets in her Cook Islands trust account since July 2010. The Court therefore will order  
3 that, to the extent she has not already done so, Defendant Lisa Rizzolo must provide to  
4 Plaintiffs all bank or other statements regarding assets in her Cook Islands trust account  
5 through the present within twenty (20) days. Additionally, she hereafter must supplement  
6 all of her discovery responses, to the extent a supplement is needed, on the first of every  
7 month, starting September 1, 2011. See Fed. R. Civ. P. 26(e), 37(b)-(c).

8 IT IS THEREFORE ORDERED that Plaintiffs' Motion for Injunctive Relief  
9 Against the Disposition or Transfer of Assets (Doc. #519) is hereby DENIED.

10 IT IS FURTHER ORDERED that Defendants Lisa Rizzolo, the Lisa M. Rizzolo  
11 Separate Property Trust, and the LMR Trust must provide to Plaintiffs all bank or other  
12 statements regarding assets in the Cook Islands trust account through the present within  
13 twenty (20) days.

14 IT IS FURTHER ORDERED that Defendants Lisa Rizzolo, the Lisa M. Rizzolo  
15 Separate Property Trust, and the LMR Trust must supplement all of their discovery  
16 responses, to the extent a supplement is needed, on the first of every month, starting  
17 September 1, 2011.

18  
19 DATED: July 28, 2011

20  
21 

22 PHILIP M. PRO  
23 United States District Judge  
24  
25  
26